



Department of the Treasury  
Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201

Release Number: **201712015**  
Release Date: 3/24/2017

Date:  
December 29, 2016

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL: 501.03-17, 501.35-00

Dear :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code (the Code). Recently, we sent you a proposed adverse determination in response to your application. The proposed adverse determination explained the facts, law, and basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within the required 30 days, the proposed determination is now final.

Because you don't qualify as a tax-exempt organization under Section 501(c)(3) of the Code, donors can't deduct contributions to you under Section 170 of the Code. You must file federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

We'll also notify the appropriate state officials of our determination by sending them a copy of this final letter and the proposed determination letter (under Section 6104(c) of the Code). You should contact your state officials if you have questions about how this determination will affect your state responsibilities and requirements.

If you have questions about this letter, you can contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Jeffrey I. Cooper  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4036, *Proposed Adverse Determination Under IRC Section 501(c)(3)*

Redacted Letter 4038, *Final Adverse Determination Under IRC Section 501(c)(3) - No Protest*





Department of the Treasury  
Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201

Date:  
November 4, 2016  
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

**Legend:**

B = state  
C = date  
D = individual 1  
E = organization 1  
F = web site address  
G = issue group 1  
H = party 1  
J = county name  
K = individual 2  
L = organization 2  
M = organization 3  
N = organization 4  
P = organization 5  
Q = organization 6  
R = issue group 2  
S = year  
T = individual 3  
U = local center  
V = individual 4  
W = individual 5  
X = individual 6  
Y = program

UIL:  
501.03-17  
501.35-00

Dear :

We considered your application for recognition of exemption from federal income tax under Section 501(a) of the Internal Revenue Code (the Code). Based on the information provided, we determined that you don't qualify for exemption under Section 501(c)(3) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

**Issues**

Do you qualify for exemption under section 501(c)(3) of the Code? No, for the reasons stated below.

**Facts**

You were incorporated in B on C. Your Articles of Incorporation state you were formed to educate the community and yourselves on current civic issues and to conduct any and all other legal activities. Your Bylaws



state you will further 501(c)(3) purposes, and specifically, organize with like-minded individuals with the interest to educate on significant events negatively impacting the country and families. You will have a commitment to work in concert with other concerned citizens to bring about positive, public policies consistent with your core values. Your three core values are fiscal responsibility, limited government, and free markets. You describe yourself as a

You are governed and run by volunteers, and although you have no formal membership consider supporters to be members. You listed several committees in your activities description with Form 1023, including neighborhoods, education, health care, cap and trade, immigration and citizenship, military, and state sovereignty, county and local government. These committees analyze and research their specific areas through the portal of your core values and report their findings at meetings or through your web site. You state your primary focus is the education of your members and the community at large.

You state that you are not a political party. You are part of a nationwide movement of concerned individuals that are interested in learning more about how their country works and how they can plan a role in the issues that matter to them.

You provided an agenda for monthly meetings, which consists of, in part, the acknowledgement of any political office holders and special guests and the announcement of any "call to action". This would be any recommendation from a committee or group with views similar to yours for involvement of your members in an event or action to support a protest or activity or to voice an opinion regarding an upcoming vote or similar current issue. All "call to actions" are voluntary on the part of your members. You also have a Y segment, which is continuing education mainly on the Constitution and a current topic set within that context. Each meeting has a main speaker, which varies, but is generally related to current issues. Speakers are bi-partisan and have ranged from D to E, regarding such issues as immigration to free speech.

You submitted a listing of candidates that have spoken at your functions outside of a candidate forum. Of the 15 partisan candidates invited to speak, 13 were listed with the H affiliation. You had no materials from these speakers, indicating this was a venue for meet, greet and introduce. You also held an election night watch party, in which K was included on a video link and held an election eve rally with T. You cited the purpose of the watch party was to celebrate the election of candidates demonstrating their commitment to a more limited and responsible government and to spread the word of your organization as a vibrant body of citizens. You also promoted a breakfast with W and X; W being a H candidate for the US Senate and X a current Senator.

Education of your members and the community continues through your website (F). F provides your visitors information regarding what you are about, and topics of interest. F provides announcements of your upcoming events, along with links to a social network which provides an additional channel to educate your members. It is titled "committees" and contains a calendar, blog, video, pictures, groups, news feeds, congressional bill updates, discussion groups, and other information to allow interaction among your members. You also use other forms of social media. You provided training on the US Constitution, Q provided materials for the topic of Turning B Around, and the Y series. The materials provided by P were subtitled citizen action handbook and provided ways for contacting local officials, writing letters to editors and op-eds, calling into talk shows, blogging, social networking, and what it means to be an activist.



You state that you do not endorse candidates or issues. You make this clear at every meeting and event. You do conduct a "Bi-Partisan Candidate Forum" prior to an election. You invite all candidates to a neutral location to address voters in a "job interview" with the topic of the night being "why should they, the candidates, get the voters vote." You have conducted meet the candidate forums in which candidates from both major parties participated. You submitted a listing of these candidates, the issues they discussed, and their party affiliations, if applicable.

You published a voter guide during the H primary. You stated this was a top level guide containing the candidates in the contested races. It contained a listing of candidates and their position as well as precinct locations.

You do conduct polls of your members to determine which candidates and issues voters are supporting. Polls are non-scientific and are conducted for information only. No recommendations are made as a result of these polls.

Your education committee is developing an outreach program for local schools with no political overtones. It will be focused on how grassroots organizations are created, why they exist, how they work, their history in America, and their rules of engagement. Volunteers have made 15 to 20 minute presentations to local tenth graders regarding the creation and meaning of the constitution, as well as the limits it places on the three branches of government. No reference to any political party is made. Students were provided with pocket Constitutions.

You also pursued a youth initiative to promote, foster and further G values in community youth. You researched the various G youth groups and concluded the best opportunity for community youth was with the existing but dormant Teen Age H Group. There was opportunity for public service and political experience, travel and scholarships. This group best fit your objective for a G youth group. However, you would only 'seed' this group, and state it is fully under the H of J County.

You do not publish materials created by other organizations, but you will distribute materials published by other organizations. You have distributed pocket constitutions provided by K, L and M. You distribute other materials provided by N. N is a Section 527 organization. You state you have an arms-length relationship with N and that they supply you with literature that is of interest to your members and that fits your G objectives.

You submitted Form 5768, electing expenditure measurement under Section 501(h), and indicated on Form 1023 that you may attempt to influence legislation. You stated your attempt to influence legislation is limited to actions you take as individual informed citizens becoming involved in the political process. You have convened volunteer committees to study and report on issues then present the findings to your membership. You do not take a particular position on an issue, but instruct members to contact their legislators as they please. You do not use the media to provide your legislative issues. You do have members meet with representatives of K's office, as he is your district's representative. They keep you informed on the status of pertinent and pending legislative issues. You then report these issues back to your members.

You conducted a get out the vote campaign that primarily consisted of educating voters on H and Constitutional values, on upcoming elections and the issues, and to some extent the candidates involved. As part of the GOTV effort you are at the polls on election day, passing out pocket Constitutions, and you encourage your members to participate in local G GOTV efforts, be they run by the County H, P, N Q or any other valid political group



your members are comfortable supporting. You go on to say your members have organized themselves to work for groups but these have not been your efforts.

Your meeting minutes discussed ways to vastly increase the percentage of R and H who vote in S. Volunteers would try to find 20 people in each precinct to get out the vote and pass out email contacts with the precinct of each member listed. You also stated "considerable work" on this effort was already done and should be handed over to those continuing. You then cited these as 'overly optimistic', and that voter turnout of these two populations has historically been high. You indicated there was no formal or informal program to increase voter participation but you encourage all who would listen to vote. You have provided volunteers to man phone banks on behalf of H at the U. You ask volunteers to support H principles by giving an hour of their time. You have stated that you merely provided members who were looking for places to support G candidates with a variety of locations to volunteer during the election cycle.

You submitted a listing of other events you have held. You provided the impetus, organizational skills, and seed money for a local tribute regarding those who fell on 9/11. You also attend funerals of local slain military members when possible. You hold an annual picnic in a local park to celebrate your birthday with the general public invited to attend. You have a committee to collect items to be donated to active military personnel twice a year. You also hold monthly V events; you describe this as a social meeting discussion group held at a local restaurant.

#### **Law**

Section 501(c)(3) of the Code describes a corporation organized and operated exclusively for religious, charitable, educational, and other purposes, provided that no part of its net earnings inures to the benefit of any private shareholder or individual and which does not participate in, or intervene in, any political campaign on behalf of (or in opposition to) any candidate for public office.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) states that to be described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Treas. Reg. Section 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be regarded as exempt if more than an insubstantial part of its activities furthers a non-exempt purpose.

Treas. Reg. Section 1.501(c)(3)-1(c)(3) An organization is not operated exclusively for one or more exempt purposes if it is an *action* organization as defined in subdivisions (ii), (iii), or (iv) of this subparagraph.

**(ii)** An organization is an *action* organization if a substantial part of its activities is attempting to influence legislation by propaganda or otherwise. For this purpose, an organization will be regarded as attempting to influence legislation if the organization:

- (a)** Contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or
- (b)** Advocates the adoption or rejection of legislation.



The term *legislation*, as used in this subdivision, includes action by the Congress, by any State legislature, by any local council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure. An organization will not fail to meet the operational test merely because it advocates, as an insubstantial part of its activities, the adoption or rejection of legislation. An organization for which the expenditure test election of section 501(h) is in effect for a taxable year will not be considered an *action* organization by reason of this paragraph (c)(3)(ii) for that year if it is not denied exemption from taxation under section 501(a) by reason of section 501(h).

**(iii)** An organization is an *action* organization if it participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.

Rev. Rul. 66-256 state that a nonprofit organization formed to conduct public forums at which lectures and debates on social, political, and international matters are presented qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code

Rev. Rul. 74-574 states that an organization exempt under section 501(c)(3) of the Code, operating a broadcasting station presenting religious, educational, and public interest programs, is not participating in political campaigns on behalf of public candidates in violation of the provisions of that section by providing reasonable air time equally available to all legally qualified candidates for election to public office

Rev. Rul. 2007-41, 2007-41 C.B. 1421, analyzes 21 situations to determine whether the organization described in each has directly or indirectly participated in a political campaign on behalf of or in opposition to a candidate for public office. All facts and circumstances are considered when making this determination. When determining whether a communication results in political campaign intervention, key factors include:

- Whether the statement identifies one or more candidates for a given public office;
- Whether the statement expresses approval or disapproval for one or more candidates' positions and/or actions;
- Whether the statement is delivered close in time to the election;
- Whether the statement makes reference to voting or an election;
- Whether the issue addressed in the communication has been raised as an issue distinguishing candidates for a given office;
- Whether the communication is part of an ongoing series of communications by the organization on the same issue that are made independent of the timing of any election;
- Whether the timing of the communication and identification of the candidate are related to a non-electoral event such as a scheduled vote on specific legislation by an officeholder who also happens to be a candidate for public office.

Also, if a candidate is invited to speak at an organization's function in his or her capacity as a political candidate, factors in determining whether participation in a political campaign has occurred include: whether the organization provides an equal opportunity to participate to political candidates seeking the same office, whether the organization indicates any support for or opposition to the candidate (including candidate introductions and communications concerning the candidate's attendance), and whether any political fundraising occurs.



If the candidate is publicly recognized by the organization, or if the candidate is invited to speak, factors determining whether the candidate's appearance results in political campaign intervention include: whether the individual is chosen to speak solely for reasons other than candidacy for public office, whether the individual speaks only in a non-candidate capacity, whether either the individual or any representative of the organization makes any mention of his or her candidacy or the election, whether any campaign activity occurs in connection with the candidate's attendance, whether the organization maintains a nonpartisan atmosphere on the premises or at the event where the candidate is present, and whether the organization clearly indicates the capacity in which the candidate is appearing and does not mention the individual's political candidacy or the upcoming election in the communications announcing the candidate's attendance at the event.

### **Application of law**

You are not described in Section 501(c)(3) of the Internal Revenue Code because you are not organized and operated exclusively for exempt purposes according to Treas. Reg. Section 1.501(c)(3)-1(a)(1).

An organization exempt under 501(c)(3) must be organized and operated exclusively for 501(c)(3) purposes. To be organized exclusively for 501(c)(3) purposes your organizing documents must limit the purposes of your organization to one or more exempt purposes. Because your Articles of Incorporation permit you to conduct any and all legal activities, you do not meet the organizational test.

You do not meet the operational test under Section 501(c)(3) because, as stated in Treas. Reg. Section 1.501(c)(3)-1(c)(1), you are not operated exclusively for one or more Section 501(c)(3) purposes. Specifically, while you conduct educational and charitable activities in furtherance of 501(c)(3) purposes, you intervene in political campaigns on behalf of or in opposition to candidates for public office which is a disqualifying activity under Section 501(c)(3).

You made the election under 501(h) for an expenditures test regarding any legislative activities you might conduct. While this election provides relief from denial of exemption for an action organization under Treas. Reg. Section 1.501(c)(3)-1(c)(3)(ii)(b), it does not for an organization if it participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office (Treas. Reg. Section 1.501(c)(3)-1(c)(3)(iii)).

While you have extended invitations to candidates in a non-partisan manner, for example, during your candidate debate, you have also provided evidence of other events where predominantly H candidates have been invited to speak to you and your members. The presentation of public forums or debates is a recognized method of educating the public. (See Rev. Rul. 66-256, nonprofit organization formed to conduct public forums at which lectures and debates on social, political, and international matters are presented qualifies for exemption from federal income tax under Section 501(c)(3)). Providing a forum for candidates is not, in and of itself, prohibited political activity. (See 74-574, organization operating a broadcast station is not participating in political campaigns on behalf of public candidates by providing reasonable amounts of air time equally available to all legally qualified candidates for election to public office in compliance with the reasonable access provisions of the Communications Act of 1934). However, a forum for candidates could be operated in a manner that would show a bias or preference for or against a particular candidate.

When a candidate is invited to speak at an organization event in his or her capacity as a political candidate, factors in determining whether the organization participated or intervened in a political campaign include the following (Rev. Rul. 2007-41):



- Whether the organization provides an equal opportunity to participate to political candidates seeking the same office;
- Whether the organization indicates any support for or opposition to the candidate (including candidate introductions and communications concerning the candidate's attendance) ; and
- Whether any political fundraising occurs.

Here, the predominance of H candidate appearances indicates intervention on behalf of H candidates. There is nothing in your application which would indicate that all of the candidate appearances are educational in purpose.

Additionally, your website linked to an event for a current H Senator (X) and H Senatorial candidate (W). There are no links to other candidate's websites or events. Links to candidate-related material, by themselves, do not necessarily constitute political campaign intervention. All the facts and circumstances must be taken into account when assessing whether a link produces that result. The facts and circumstances to be considered include, but are not limited to, the context for the link on the organization's web site, whether all candidates are represented, any exempt purpose served by offering the link, and the directness of the links between the organization's web site and the web page that contains material favoring or opposing a candidate for public office. Here, the link to an event for H Senatorial candidate (W) is political campaign intervention because not all candidates are represented and you have not established an exempt purpose being served by offering the link.

Section 501(c)(3) organizations may encourage people to participate in the electoral process through voter registration and get-out-the-vote drives, conducted in a non-partisan manner. On the other hand, voter education or registration activities conducted in a biased manner that favors (or opposes) one or more candidates is prohibited. (Rev. Rul. 2007-41) As part of your GOTV effort you encourage your members to participate in local G GOTV efforts, be they run by the County H, P, N Q or any other valid political group your members are comfortable supporting. Your meeting minutes discussed ways to vastly increase the percentage of R and H who vote in S. Volunteers would try to find 20 people in each precinct to get out the vote and pass out email contacts with the precinct of each member listed. You cited these as 'overly optimistic', and that voter turnout of these two populations has historically been high. Both of these are examples of favoring one or more candidates and are therefore conducted in a partisan or biased manner. Accordingly these GOTV activities are political campaign intervention.

#### **Your position**

You have indicated you would accept exemption under IRC 501(c)(4) in the event you do not qualify for exemption under IRC 501(c)(3). You also stated Form 1024 was included with your last response.

#### **Our response to your position**

Although you stated that you attached Form 1024, it was not found with your application. Further, since you did not withdraw your Form 1023 and actually apply for exemption under section 501(c)(4) by submitting Form 1024, we did not consider whether or not you qualify for exemption under that Section of the Code.

#### **Conclusion**

Based on the above facts and analysis, you do not qualify for exemption under section 501(c)(3) of the Code. You fail the organizational test. You also fail the operational test because you participate in political campaign activities.



**If you don't agree**

You have a right to file a protest if you don't agree with our proposed adverse determination. To do so, you must send a statement to us within 30 days of the date of this letter. The statement must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A copy of this letter highlighting the findings you disagree with
- An explanation of why you disagree, including any supporting documents
- The law or authority, if any, you are relying on
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization, or your authorized representative
- One of the following declarations:

**For an officer, director, trustee, or other official who is authorized to sign for the organization:**

Under penalties of perjury, I declare that I examined this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

**For authorized representatives:**

Under penalties of perjury, I declare that I prepared this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, *Power of Attorney and Declaration of Representative*, with us if he or she hasn't already done so. You can find more information about representation in Publication 947, *Practice Before the IRS and Power of Attorney*.

We'll review your protest statement and decide if you provided a basis for us to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't provided a basis for reconsideration, we'll forward your case to the Office of Appeals and notify you. You can find more information about the role of the Appeals Office in Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*.

Pursuant to the December 12, 2014, final judgment in *Linchpins of Liberty, et. Al., v. United States of America*, Civil Action No. 1:13-cv-00777-RBW, you are not entitled to Declaratory Judgment rights under section 7428 of the Code.

**Where to send your protest**

Please send your protest statement, Form 2848, if needed, and any supporting documents to the applicable address, Department of Justice.



**If you agree**

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

You can find all forms and publications mentioned in this letter on our website at [www.irs.gov/formspubs](http://www.irs.gov/formspubs). If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Jeffrey I. Cooper  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure:  
Publication 892